



# INFORMATION SHEET

Serving the People of California

## OFFERS IN COMPROMISE

Assembly Bill (AB) 1238 was passed into law and became effective January 1, 1994. This law permits the Employment Development Department to receive applications for Offers in Compromise that will enable a tax debtor to eliminate an employment tax liability at less than full value.

### Eligibility Requirements

- Individual owners, partners, individuals assessed under Section 1735 of the California Unemployment Insurance Code (CUIC) with inactive out-of-business accounts.

Partners, or individuals assessed under Section 1735 of the CUIC of an active business, only if you no longer have a controlling interest or association with the business that incurred the liability.

- Only nondisputed, final tax liabilities will be considered.
- Must not have access to income sufficient to pay more than the accumulating interest and 6.7% of the outstanding liability annually.

The following formula, based on a liability of \$5,000.00, is provided as a guideline:

Liability of	\$5000	
Annual Interest*	x 7%	
		\$350
Liability of	\$5000	
	x 6.7%	
		<u>\$335</u>
Total		\$685

\*Interest rate may change with prime rate and is compounded daily.

Based on the example liability of \$5,000 you must **NOT** have access to annual income sufficient to

pay more than \$685 annually or \$57.00 per month.

- Must not have prospects of increased income or assets which allow payment within a reasonable period.
- Must not have assets, which if sold, would satisfy the liability.
- The amount offered must be more than the Department could expect to collect through involuntary means within four years of the time the offer is made.
- Must submit payment of the amount offered in the form of cash, cashier's check, or money order at the time offer is made. Applicants may be permitted to pay the agreed upon (compromised) amount in installments not to exceed a five year period.
- In the event an offer is not accepted, the amount will either be applied to the liability or refunded. The employer or individual submitting the offer must indicate their preference on the OIC application. A good faith payment is not required.
- Compromises are prohibited for liabilities assessed for fraud (Section 1128) or where the employer has been convicted of a violation of the CUIC.

### How to Apply

Offer in compromise applications can be obtained by contacting your local Employment Tax Customer Service Office or the Department at (916) 464-0646. Applications are also available on the Department's internet site: <http://www.edd.cahwnet.gov>. For specific questions or additional information, contact the Offers in Compromise Unit at (916) 464-2726.

EDD is an equal opportunity employer/program. For copies of this publication in alternate formats, please call the phone number of your local EDD office (listed in the phone directory under "State of California, Employment Development Department").